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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

FISCHETTI, JOSEPH A

ART UNIT PAPER NUMBER

3627

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/696,754

Applicant(s)

LAMOUREUX ET AL.

Examiner

Joseph A. Fischetti

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12, 59-67 and 76-87 is/are pending in the application.
- 4a) Of the above claim(s) 76-87 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12 and 59-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Election/Restrictions

Newly submitted claims 76-87 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claim 1 does not include the features of documents, contractual keyword descriptors, and updated values. Conversely, claim 76 does not include the limitation of "business language definition descriptors that specify the descriptive metadata of each of the information bundles". As such, these claims define subcombinations usable together.

Since applicant has received an action on the merits for the originally presented invention as defined by claim 1, and this invention, claim 1 et seq., has been affirmatively elected for prosecution on the merits in the response dated 10/23/03, he cannot now seek prosecution on another invention. Accordingly, claims 76-87 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2, 3, 5-10, 12, 59-63, 65,66,67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowman-'234. Bowman-'234 discloses distributing information bundles from different ones of a first plurality of different networked users to different

ones of a second plurality of different network users according to a machine-readable format that includes values for a plurality of content attribute descriptors -see col. 233 lines 56 et seq. wherein it is stated that each data stream "includes an attribute descriptor defining elements of the data".

Bowman '234 further discloses using metadata as the attribute descriptors to support financial, e.g. business language (*even still, what the descriptor describes is not given patentable weight given that anything can be attributed to such signals*). In particular it is stated Bowman '234:

Like SGML, XML is a meta-language that allows authors to create their own customized tags to identify different types of data on their Web pages. In addition to improving document structure, these tags will make it possible to more effectively index and search for information in databases and on the Web. ... XML is currently playing an important role the realm of electronic commerce via the Open Financial Exchange, an application developed by Microsoft, Intuit, and CheckFree for conducting electronic financial transactions. Similarly, HL7, a healthcare information systems standards organization, is using XML to support electronic data interchange EDI of clinical, financial, and administrative information (<http://www.mcis.duke.edu/standards/HL7/sigs/sgml/index.html>).

Bowman '234 discloses in col. 200 lines 1-2, discloses deriving attribute values for the purpose of auditing. It is deemed an obvious variant of auditing to derive traffic statistics since that is what auditing is. Notwithstanding, Milsted et al. derives by billing statistics based on the Product ID data in the metadata, see col. 76. Further, Milsted et al. disclose using metadata to package content 113 for electronic distribution and then uses store 103 which uses the metadata for billing because it cannot access the

content. It would be obvious to use the metadata tag system of Milsted et al. in Bowman '234 because this would allow monitoring of transfer without having to see the full product thereby saving bandwidth.

RE claims 2,3: the practice of billing differently for items going to different locations is an old expedient in the art.

Re claim 6: Fig 72 illustrates an offer/acceptance scenario between provider and potential customer. It would be an obvious extension of the audit teaching in '244 to derive statistics about the presentation of offer bundles and acceptance rates for these offer bundles based upon theses scenario because the motivation would be to price at the market.

Re claim 9. Bowman '234 discloses real time data interrogation, since each attribute is interrogated in real time, auditing is deemed to obviously be conducted in the same manner.

Re claim 10. col. 239 lines 60 et seq., Bowman '234 discloses using meta-tags which cause data to be written to a buffer or node of the customer.

Re claim 12: a ticker symbol field is deemed merely an intended use and does not constitute invention.

Re claims 59,60: the bundle or target descriptor in Bowman '234 is read as the "standards" descriptor in (<http://www.mcis.duke.edu/standards/HL7/sigs/sgml/index.html>).

Re claim 65 official notice is taken to the standard format of bundles.

The motivation for using the teachings of Milsted et al is repeated herein for each of the following elements:

Re claims 7 and 8; in Milsted et al. disclose at step 610 statistics on transfers of contents identified by their metatags.

Re claim 5: in Milsted et al. the tool 161executes bundling exclusive of human intervention.

Re claim 61: in Milsted et al., CD title has a value for licensing purposes.

Re claim 62: in Milsted et al., the artist name is deemed to be bundle type.

Re claim 63: in Milsted et al., artist is a key word known of standardized in the artists community.

Re claims 66,67: what statistics are used for is deemed a matter of intended use without merit to advancing a patentable step.

Claims 1,4 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowman-'234 and Milsted et al. as applied to claims above, and further in view of Colby et al.

Bowman fails to disclose using an event table to manage data based on user definable properties, e.g. events. Colby et al. do disclose such a table. It would be obvious to provide such a table to Bowman the motivation being the increased ability to manage data flow through the distribution process.

RE claim 4, the event table in Colby et al. is read as the processing logic which obviously is capable of prioritizing billing.

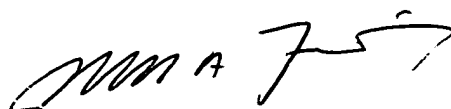
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's arguments filed 12/20/04 have been fully considered but they are not persuasive. Applicant argues that there is no teaching of business language metadata. However, as set forth above, Bowman is clear that the XML data is metadata which is used in financial data exchange. Thus, there is a clear teaching for this feature.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to **PRIMARY EXAMINER Joseph A. Fischetti** at telephone number (703) 305-0731.

A handwritten signature in black ink, appearing to read "J A Fischetti", is located at the bottom right of the page.